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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,852	05/15/2006	Andreas Reineke	BE9139PCT(US)	7884
22203	7590	04/02/2009	EXAMINER	
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			ING, MATTHEW W	
			ART UNIT	PAPER NUMBER
			3637	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,852	Applicant(s) REINEKE, ANDREAS	
	Examiner MATTHEW W. ING	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/15/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 5/31/05 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the inside of the casing (claim 1), a casing wall (claim 11), & a component to be cooled (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claim 1, the phrase "especially" (line 1) renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

6. Regarding claim 11, the inclusion of the term "a component" renders the claim(s) indefinite, since it is unclear whether this term actually denotes a component of the claimed invention, or is merely included for illustrative purposes. For the purposes of examination, the examiner is considering that the term "a component" is not part of the claimed invention; but rather that it is included merely for illustrative purposes.

7. Regarding claims 2-10, the dependence of such claim(s) upon an indefinite base claim renders said claim(s) indefinite.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 4-5, & 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Paterson (5,547,272).

10. Regarding claim 1, Paterson teaches at least one casing wall (16) has a recess (46 & area surrounding 46) facing (via inner surface of 46) the inside of the casing; wherein the recess is constructed with at least one ventilation opening (in 46), wherein the recess is covered by a cover (20a) on the outside at least in the area of the ventilation opening.

11. Regarding claim 4, Paterson teaches a cover (20a) detachably affixed to the recess (46 & area surrounding 46).

12. Regarding claim 5, Paterson teaches a cover having at least one cross-piece (22) which can be inserted in a corresponding fixing opening (18) of the recess.

13. Regarding claims 7-9, Paterson teaches an air-permeable cover (20a) arranged as an air filter (Fig. 3) & consisting of plastic (col. 2, lines 51-52).

14. Regarding claim 10, Paterson teaches a recess (46 & area surrounding 46) comprising a plurality of ventilation openings (in 46).

15. Regarding claim 11, Paterson teaches a casing wall (Fig. 3), on which a component to be cooled is capable of being arranged, runs on the side opposite to the recess (46 & area surrounding 46).

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16. Claims 1 can be alternately rejected, along with claims 2-3, under 35 U.S.C. 102(e) as being anticipated by Huang (2002/0141154).

17. Regarding claim 1, Huang teaches at least one casing wall (11) having a recess (Fig. 1) facing the inside of the casing; wherein the recess is constructed with at least one ventilation opening (Fig. 1), wherein the recess is covered by a cover (12) on the outside at least in the area of the ventilation opening.

18. Regarding claim 2, Huang teaches a casing wall (11) and the cover (12) forming a substantially flush surface.

19. Regarding claim 3, Huang teaches a circumferential slit between cover (12) and wall (11). Whereas the cover (12) is clearly rotatable relative to the wall, it is therefore reasonable to conclude that said cover is not friction-fit to said wall; and that as such, at least some spacing exists between all sides of said cover & said wall.

20. Claims 1 can be alternately rejected, along with claims 2-3, under 35 U.S.C. 102(a) as being anticipated by Huang (2002/0141154).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

23. Claim 3 can be alternately rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (2002/0141154) as applied to the claim(s) above. Huang teach(es) the structure substantially as claimed, including a slit on at least some sides of said cover. The only difference between Huang and the invention as claimed is that Huang arguably fail(s) to teach a circumferential slit between cover and wall. However, whereas Huang teaches a cover (12) obviously rotatable relative to a wall (11), it is therefore reasonable to conclude that said cover is not friction-fit to said wall; and that as such, at least some spacing exists between at least some (e.g., top & bottom) sides of said cover & wall. It would have been obvious to one of ordinary skill in the art to include spacing, as taught by Huang, on all sides of the cover thereof, in order to reduce friction between said cover & wall, thereby increasing user convenience by rendering said cover more easily movable relative to said wall; thereby providing the structure substantially as claimed.

24. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (2002/0141154). Huang teaches the structure substantially as claimed, including a cover (12); the only difference being, Huang fails to teach a circular cover. However, the examiner takes official notice that the practice of varying the shape of a cover well known in the art. It would have been an obvious design consideration to one of ordinary skill in the art to modify the cover of Huang, by said cover circular, depending on the desired needs of the person constructing the

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cover (e.g., intended use of the cover, aesthetic considerations, compactness, ease of manufacture, etc.), thereby providing the structure substantially as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWI

23 March 2009

/José V. Chen/

Primary Examiner, Art Unit 3637